

Canon 1: Tribunal members shall uphold the integrity and independence of the Tribunal.

An independent and honorable Tribunal is critical to the Tribunal's vision and its value to taxpayers. Tribunal members and Tribunal staff should participate in establishing, maintaining, and enforcing and should personally observe high standards of conduct so that integrity and independence of the Tribunal may be preserved. Tribunal members should always be aware that the Tribunal exists for the benefit of the litigant and the public, not the Tribunal members. The provisions of this code should be construed and applied to further those objectives.

Canon 2: Tribunal members shall avoid impropriety and the appearance of impropriety in all activities.

A. Public confidence in the Tribunal is eroded by irresponsible or improper conduct. Tribunal Members and staff must avoid all impropriety and appearance of impropriety. Tribunal Members must expect to be the subject of constant public scrutiny and must therefore accept restriction on conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

B. Tribunal Members should respect and observe the law. At all times, the conduct and manner of a tribunal member should promote public confidence in the integrity and impartiality of the Tribunal. Without regard to a person's race, gender, or other protected personal characteristic, a Tribunal Member should treat every person fairly, with courtesy and respect. Tribunal Members should refrain from personal attacks or critique of other members, the legislature or other elected officials and should seek to avoid unnecessary public controversy regarding internal operational matters.

C. A Tribunal Member should not allow family, social, or other relationships to influence judicial conduct or judgment. A Tribunal Member should not use the prestige of office to advance personal business interests or those of others. A Tribunal Member should not appear as a witness in a court proceeding unless subpoenaed.

D. A Tribunal Member may respond to requests for personal references.

E. A Tribunal Member should not allow activity as a member of an organization to cast doubt on the Tribunal Member's ability to perform the function of the office in a manner consistent with the Tribunal's Code of Conduct, the laws of this state, and the Michigan and United States Constitutions. A Tribunal Member should be particularly cautious with regard to membership activities that discriminate, or appear to discriminate, on the basis of race, gender, or other protected personal characteristic. Nothing in this paragraph should be interpreted to diminish a Tribunal Member's right to the free exercise of religion.

Canon 3: Tribunal members shall perform their duties impartially and diligently.

The judicial duties of a Tribunal Member take precedence over all other activities. Judicial duties include all the duties of office prescribed by law. In the performance of these duties, the following standards apply:

A. **Adjudicative Responsibilities.**

(1) A Tribunal Member should be faithful to the law and maintain professional competence in it. A Tribunal Member should be unswayed by partisan interests, public clamor, or fear of criticism.

(2) A Tribunal Member may require tax representatives, court personnel, and litigants to be appropriately attired for court and should enforce reasonable rules of conduct in the courtroom.

(3) Tribunal Members should be patient, dignified, and courteous to litigants, jurors, witnesses, tax representatives, and others with whom the Tribunal Member deals in an official capacity, and should require similar conduct of tax representatives, and of staff, court officials, and other subject to the Tribunal Member's direction and control.

(4) Tribunal Members and Tribunal staff shall not initiate, permit, or consider ex parte communications, or consider other communications made to the Tribunal Member outside the presence of the parties concerning a pending or impending proceeding, except as follows:

(a) Tribunal Members and Tribunal staff may allow ex parte communications for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits, provided:

(i) the Tribunal Member and Tribunal staff reasonably believes that no party or counsel for a party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the Tribunal Member and Tribunal staff makes provision promptly to notify all other parties and counsel for parties of the substance of the ex parte communication and allows an opportunity to respond.

(b) Tribunal Members may obtain the advice of a disinterested expert on the law applicable to a proceeding before the Tribunal Member if the Tribunal Member gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.

(c) Tribunal Members may consult with Tribunal staff whose function is to aid the Tribunal Member in carrying out the Tribunal Member's adjudicative responsibilities or with other Tribunal Members. Tribunal staff shall not reveal to litigants in a pending cases discussions staff has had with Tribunal Members regarding pending matters.

(d) Tribunal Members and, at the specific assignment of the Chair, Tribunal staff may, with the consent of the parties, confer separately with the parties and their tax representatives in an effort to mediate or settle matters pending before the Tribunal Member.

(e) A Tribunal Member may initiate or consider any ex parte communications when expressly authorized by law to do so.

(5) Tribunal Members and staff should dispose promptly of the business of the court.

(6) Tribunal Members shall not utilize their assignment to any case or matter in a manner that appears to assist the Tribunal Member's reappointment or employment. Tribunal Members should ensure that all small claims cases are decided prior to the end of the appointment. Tribunal Members should resign from all presiding judge duties and restrict holding entire tribunal hearings within a month preceding the end of their appointment so as to avoid any appearance of a conflict of interest.

(7) Tribunal Members should abstain from public comment about a pending or impending proceeding in any court, and should require a similar abstention on the part of Tribunal staff subject to the Tribunal Member's direction and control. This subsection does not prohibit a Tribunal Member from making public statements in the course of official duties or from explaining for public information the duties or from explaining for public information the procedures of the Tribunals or the Tribunal Member's holdings or actions.

(8) A Tribunal Member may properly intervene in a trial of a case to promote expedition, and prevent unnecessary waste of time, or to clear up some obscurity, but the Tribunal Member should bear in mind that undue interference, impatience, or participation in the examination of witnesses, or a severe attitude on the Tribunal Member's part toward witnesses, especially those who are excited or terrified by the unusual circumstances of a trial, may tend to prevent the property presentation of the cause, or the ascertainment of truth in respect thereto.

Conversation between the Tribunal Member and tax representatives in court is often necessary, but the Tribunal Member should be studios to avoid controversies that are apt to obscure the merits of the dispute between litigants and lead to its unjust disposition. In addressing counsel, litigants, or witnesses, the Tribunal Member should avoid a controversial manner or tone.

A Tribunal Member should avoid interruptions of tax representatives in their arguments except to clarify their positions, and should not be tempted to the unnecessary display of learning or a premature judgment.

(9) A Tribunal Member should adopt the usual and accepted methods of doing justice; avoid the imposition of humiliating acts or discipline and endeavor to conform to a reasonable standard of punishment and not seek popularity or publicity.

(10) Without regard to a person's race, gender, or other protected personal characteristic, a Tribunal Member should treat every person fairly, with courtesy and respect. To the extent possible, a Tribunal Member should require staff, Tribunal staff, and others who are subject to the Tribunal Member's direction and control to provide such fair, courteous, and respectful treatment to persons who have contact with the court.

## **B. Administrative Responsibilities.**

(1) A Tribunal Member should diligently discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other Tribunal Members and Tribunal staff.

(2) A Tribunal Member should direct Tribunal staff to observe high standards of fidelity, diligence, and courtesy to litigants, jurors, witnesses, tax representatives, and others with whom they deal in their official capacity.

(3) A Tribunal Member should notify the Tribunal Chair of any unprofessional conduct of which the Tribunal Member may become aware.

**C. Disqualification.** A Tribunal Member should raise the issue of disqualification whenever the Tribunal Member has cause to believe that grounds for disqualification may exist under MCR 2.003(B). A motion to disqualify a Tribunal Member from hearing a

matter shall be decided by the Tribunal Member. If the challenged Tribunal Member determines that the motion should be denied, the chair shall designate 3 Tribunal Members to review the motion to determine whether the motion should be denied as proposed.

**D. Remittal of Disqualification.** A disqualification of a Tribunal Member may be remitted as provided by MCR 2.003(D).

Canon 4: Tribunal members may engage in activities to improve the law.

A Tribunal Member is a unique position to contribute to the improvement of the law, the tax professional groups and tax education. To the extent that time permits, the Tribunal Member is encouraged to do so, either independently or through a professional association, judicial conference, or other organization dedicated to the improvement of the law.

A Tribunal Member, subject to the proper performance of Tribunal duties, may engage may speak, write, lecture, teach, and participate in other activities concerning tax law.

Canon 5: Tribunal members should regulate extra-judicial activities to minimize the risk of conflict with judicial duties.

A Tribunal Member may write, lecture, teach, speak, and consult on nonlegal subjects, appear before public nonlegal bodies, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of the office or interfere with the performance of judicial duties.